

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  CONSOLIDATED TELECOM, INC.	DOCKET NOS. TF-03-497 WRU-03-66-3740
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**ORDER APPROVING TARIFF AND GRANTING REQUEST FOR WAIVER**

(Issued December 5, 2003)

On November 5, 2003, Consolidated Telecom, Inc. (Consolidated), filed with the Utilities Board (Board) a proposed tariff, identified as Docket No. TF-03-497. Consolidated is designated as an alternative operator service (AOS) provider, pursuant to Iowa Code § 476.91. On November 14, 2003, Consolidated filed a statement with the Board asserting that the proposed rates reflected in its tariff are at or below the rates charged by AT&T Communications of the Midwest, Inc. (AT&T), for similar operator services. Consolidated requests the Board approve its proposed tariff.

Board rule 199 IAC 22.12(1)"b" provides that the Board will approve, without specific cost studies, "[t]ariff filings of AOS utilities that propose rates at or below the corresponding rates for similar services of utilities whose rates have been approved by the board in a rate case or set in a market determined by the board to be competitive." The tariff filing and subsequent statement submitted by Consolidated demonstrate that the rates for the proposed products are at or below the corresponding rates for similar services by AT&T. AT&T's rates are set in a competitive market. Therefore, the Board will approve Consolidated's tariff.

Also on November 5, 2003, Consolidated filed a request for waiver of specific Board rules. Consolidated is an AOS company offering operator-assisted calling exclusively to correctional facilities in Iowa. Consolidated requested the Board grant a waiver of Board rules 199 IAC 22.19(3) and (4) and 199 IAC 22.5(10)"a" and "f," which relate to call blocking, posting requirements concerning various service options, the confidential nature of operator-assisted calls, and connection to emergency services. The request has been identified as Docket No. WRU-03-66-3740. No objection to the request has been filed.

In support of its request, Consolidated states that because of the nature of the services being provided, the correctional facilities must be able to control inmate access to some services, such as call blocking and emergency services.

Similarly, because of the environment in which Consolidated will provide services, posting requirements and confidentiality requirements are inappropriate. To grant the waiver, the Board must find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rules.

The Board finds that a waiver of 199 IAC 22.19(3) and (4) and 199 IAC 22.5(10)"a" and "f" should be granted, based on the Board's review of the information provided by Consolidated. The Board finds that it would be an undue

hardship for Consolidated to abide by these rules given the specialized nature of the offered services. The Board also finds that the waiver will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have been afforded by other means unique to the particular environment being served.

**IT IS THEREFORE ORDERED:**

1. The tariff filed by Consolidated Telecom, Inc., on November 5, 2003, is approved.
2. The waiver request filed by Consolidated Telecom, Inc., on November 5, 2003, is granted. The blocking requirement of 199 IAC 22.19(3), the posting requirement of 199 IAC 22.19(4), the confidentiality requirement of 199 IAC 22.5(10)"a," and the emergency services requirement of 199 IAC 22.5(10)"f" are waived, subject to future Board orders.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 5<sup>th</sup> day of December, 2003.